THE PISHERIES.

PROVINCIAL AND IMPERIAL ACTS, for the Protection of the Fisheries of British North America.

1. The schooner Nabby was seized by her Majesty's ship Saracen, John Gore, Master and Commander, and prosecuted in the Admiralty Ceurt, before Judge Uniacke, on the 24th August, 1818, anterior to the Convention, under an order from the Right Honorable the Lords of the Ad-miralty, to the Commander-in-Chief of the North American Sanadran.

American Squadron.
2. The Convention passed on the 20th Oct., 1818.

The following Imperial Act, 9 Geo. III., Chap. 38, passed on the 14th June, 1819;

AS ACT to enable his Majesty to make Regulations with respect to
the taking and curios Fish on certain parts of the Coasts of
Newfoundland, Labrador, and his Misesty's other Possessions
in North America, no certains to a Convection made between
his Majesty and the United States of America.

in Next America, according to a Convention made between his Majesty and the United States of America.

**Wherea, A Convention between his Majesty and the United states of America was made and signed at London, on the twentieth day of October, one thousand eight hundred and eightwen; and by the first article of said Convention, reciting that differences had arisen respecting the liberty claimed by the United States for the inhabitants thereof to take, dry, and cure fish in certain coasts, bays, harbors, and creeks of the Bruannic Majesty's Dominiotos is America, it is agreed that the inhabitants of the said United States shall have forever, in common with the subjects of His Britannic Majesty, the Riberty to take fish of every aind on that part of the acouthern coast of Newfoundland, from said Cape Ray to the Ramean Islands, on the western and northern coasts of Newfoundland, from said Cape Ray to the Quirpon Islands, on the southern coast of Labrador, to and through the Straits of Belleist, and thence northern world through the Straits of Belleist, and thence northern wardly indefinitely along the coast, whost prejudice however to any of the exclusive rights of the Hudson's Bay Company; and it was also by the said article of the sudhern part of the coast of Newfoundland anover described, and the purpose of the such purpose with the inhabitant, proprieture, or possessors of the ground: And whereas it is expedient that His Majesty should be enabled to carry into execution so much of the said Convention as its above recitee, and to make regulations for that purpose; to make such regulations, not the authority of t " Whereas, A Convention between his Majesty and the

not with trading.

2. And be it jurther enacted. That from and after the sing of this Act, it shall not be lawful for any person passing of this Act, it soull not be lawful for any person or persons, not being a natural born subject of His Majesty, in any foreign ship, vessel, or boat, nor for any person in any ship, vessel, or boat, other than such as shall be navigated according to the laws of the Usited Kingdom of Great Britain and Ireland, to fish, or to take, dry or cure, any fish of any kind wnatsover, within three marine miles of any coasts, bays, creeks or narbors whatever, in any part of His Majesty's dominions in America, not included within the limits specified and described in the first Article of the said Convention, and hereinbefore recited; and that if any such foreign described in the first Article of the said Convention, and hereinbefore recited; and that if any such foreign ahip, vessel or boat, or any persons on board thereof, shall be found fishing, or to have been fishing, or preparing to fish within such distance of such coasts, bays, creeks or harbors, within such parts of His Majesty's dominions in America, out of the said limits as shoressid, all such ships, vessels and boats, together with their cargors, and sli guns, amountition, tackle, apparel, 'urature and stores, shall be forfeited, and shall and may be selzed taken sued for, prosecuted, recovered and coasted them sued for, prosecuted, recovered and coasted them. ture and stores, shall be forfeited, and shall and may be seized, taken, sued for, prosecuted, recovered and condemned, by such and the like ways, means and methods, and in the same Courts, as ships, vessels, or boats, may be forfeited, seized, prosecuted, and condemned for any offense against any laws relating to the Reveous of Customs, or the Laws of Trade and Navigation, under any Act or Acts of the Parliament of Great Britain, or of the United Kingdom of Great Britain and Ireland—provided that nothing in this Act contained, shall apply or be construed to apply to the ships or subjects of any Prince, Power, or State, in antity with His Majesty, who are entitled, by Treaty with His Majesty, to any privileges of taking, drying, or curing fish, on the coasts, bays, creeks, or harbors, or within the limits in this Act described.

described.

3. Provided always, and be it enacted. That it shall and may be lawful for any fisherman of the sold United States to enter into any such bays or harhors of the Britannic Majesty's dominions in America, as are last mentioned, for the purpose of shelter and repairing damages therein, and of purchasing wood and of obtaining water, and of monthly mysters in the purpose wherever, and there were the proper property. therein, and of purchasing weed and of outsiding water, and for no other purpose whatever; subject, bevertheless, to such restrictions as may be necessary to prevent such fishermen of the said United States from taking, drying or curing fish in the said bays or harbors, or in the contract manner whatever shoulde the said privileges. by he said treaty and by the Act reserved to them, and as shall for that purpose be imposed by any order or orders to be from time to time made by His Majesty in Council under the authority of this Act, and by any regulations which shall be issued by the Governor or person exercising the office of Governor, in any such parts of His Majesty's dominions in America, under or in pursuance of any such Order in Council as aforesaid.

4 And be it further enacted, That If any person or existence of further chackes, that it any person of Newfoundland, or the person exercising the office of Governor, or by any Governor or person exercising the office of Governor, or by any Governor or person exercising the office of Governor in any other parts of His Majesty's dominions in America as aforesaid, or by any officer or officers acting under such Governor or person exercising the office of Governor, in the execution of any erders and instructions from His Majesty in Council, shall refuse to depart from such bays or harmors; or if any person or persons shall refuse or neglect to conform to any regulations or directions which shall be made or given for the execution of any of the purposes of this Act; every such person so refusing or otherwise offending against this Act shall forfeit the sum of two bundred pounds, to be recovered in the Saprema Court of Judicature of the Island of Newfoundland, or in the Superior Court of Judicature of the colony or settlement within or near to which such offense shall be committed, or by bill, plaint, or information in any of His Majesty, Courts of Record at Westminster; one moiety of such penalty to bell up to His Majesty, blackets of such penalty to bell up to His Majesty, persons, upon regulation made by the Newfoundland, or the person exercises any of His Majesty's Courts of Record at Westminster; one molety of such penalty to belong to His Majesty, his heirs, and successors; and the other molety to such person or persons as shall sue or prosecute for the same: provided always, that any such suit or prosecution, if the same be committed in Newfoundiand, or in any other colony or settlement, shall be commenced within three calendar months; and, if commenced in any of his Majesty's Courts at Resiminster, within twelve calendar months from the time of the commission of such offense.

Provincial Act 6, Wm. IV., Chap 8. Provincial Act 6, Wm. IV., Chap 5.

3. On the 12th March, 1836, the Act of this Province passed, entitled, "An Act relating to the Fishertes, and for the prevention of lilledt Trade in the Province of Nova Scotia, and the ceasts and harbors thereof; this Bill was accompanied by sadresses from both branches of the Legislature, and is embodied in the Revised Statutes, page 282, as follows:

1. Officers of the Colonial Revenue, Sheriffs, Magistrates, and any other person duly commissioned for that purpose, may 50 on board any vessel to board thin asy harbor in the province, or hovering within three miles of any of the coasts or harbors thereof, and stay on board so long as she may remain within such place or

board so long as she may remain within such place of

stance. 2. If such vessel or boat be bound elsewhere and 2. If such vessel or boat be bound elsewhere and shall continue within such harbor, or so hovering for twenty four hours after the master shall have been required to depart, any one of the officers abovementioned may bring such vessel or boat into port and tearch ber cargo, and also examine the master upon oath, and if the master or person in command snall not truly answer the questions demanded of him in such truly answer the questions demanded of him in such truly answer the questions demanded of him in such truly answer the questions demanded to him in such truly answer the questions of the person of the such truly and the cargo thereof, shall be forfelted.

3. If the vessel or boat shall be foreign, and not nav-

3. If the vessel or boat shall be foreign, and not nav-lgated seconding the laws of Great Britain and ireland, and shall have been found fishing, or preparing to fish, or to have been fishing, within three marine miles of such coasts or harbors, such vessel or boat, and the

eargo, shall be forfeited.

4. All goods, vessels and boats, liable to forfeiture, may be seized and secured by any such officers or persons so commissioned, and every person opposing them, or any one aloing such opposition, shall forfeit two hundred pounds.

be seized and secured by any such officers or person: so commissioned, and every person opposing them, or any one aloing such opposition, shall forfeit two hundred pounds.

5. Goods, vessels and boats, seized as liable to forseliture under this chapter, shall be forthwith delivered into the custody of the officers of the colonial revenue next to the place where seized, to be secured and kept as other vessels, boats and goods seized are directed to be secured and kept by law.

6. All goods, vessels and boats condemned as forfeited under this clapter shall, by direction of the principal officer of the colonial revenue where the seizer shall have been secured, be sold at public auction, and the produce of such sale shall be applied as follows:

The amount chargeable for the custody of the property seized shall first be descreted and paid over for that officer or person seizing the same, without deduction, and the other half, after first deduction, the control of the control of the province; but the Board of Revenue may invertible feet direct that any vessel, boat or goods seized and forfeited, shall be destroyed or reserved for the public service.

7. All penalties and forfeitures hereunder shall be received and forfeitures and forfeitures hereunders shall be destroyed or reserved for the public service.

7. All penalties and forfeitures hereunder shall be received and forfeitures and forfeitures hereunders shall be received and forfeitures and forfeitures hereunders shall be received and forfeitures and forfeitures hereunders shall be received and forfeitures hereunders s

prosecuted and recovered in the Court of Vice-Admiralty.

8. If any goods, vessel or boat, shall be selzed and forfeited under this caspter, the Judge and Vice-Admiralty, with the consert of the persons selzing the same, may order re delivery thereof, on security by bond to be made by the party, with two sureties, to the use of Her Majesty. In case the property shall be condemned, the value thereof shall be paid into the Court, and distributed as above directed.

9. All suits for the recovery of penalties or forfeit unes shall, in the name of Her Majesty, and shall be prosecuted by the Advocate-General, or in case of his absence, by the Solicitor General. If a dispute arise whether any person is authorized to setze under this chapter, and a discute arise, the proof touching the illegality thereof shall be upon the owner or claimant.

a discute arise, the proof touching the Heganity thereone, shall be upon the owner or claimant.

11 No claim to anything seized under this chapter, and returned into the Court of Vice-Admirably for adjudication, shall be admirted, unless the claim be entered under oath, with the name of the owner, his residence and occupation, and a description of the property and occupation, and a description of the property and occupation, and a hall be made by the owner, his attorney or sgent, and to the best of his knowledge and bell f.

bell-f.

12 No person shall enter a claim to any thing seized under this chapter until security shall have been given in a reasily not exceeding sixty pounds to answer and pay costs occasioned by such claim, and in default of such security the things setzed shall be adjudged forfeited and shall be condemned.

13 No writishall be sued out against any officer or other person authorized to a live and a thing set or other person authorized to a live and a thing set.

13. No writ shall be sued out against any officer or other person authorized to seize under this chapter for may thing done thereunder, until one month after notice in writing, delivered to him or left at his usual place of abode by the person intending to sue out such writ, his attorney or agent; in which notice shall be contained the cause of action, the name and place of abode of the person who is to bring the action, and of his attorney or agent, and no evidence of any cause of action shall be produced except such as shall be contained in such action.

14. Every such action shall be brought within three 14. Every such action shall be brought within three months after the cause thereof has arises.

15. If on any information or suit brought to trial under this crapter on account of any seizure, judgment shall be given for the culount, and the judge of or toe-sigure, the cisimans shall not recover costs, nor shall the person who made the seizure be liable to any indictment or suit on account thereof. And if any suit or prosecution be brought against any person on account of such seizure, and judgment shall be given against him, and the judge or Court shall certify that there was probable cause for the seizure, then the re was probable cause for the seizure, then the in iff, besides the thing seized or its value, shall not p shold, besides the thing seized or its variety of receiver more than two perce damages nor any costs of suit, nor shall the defendant be fined more than one

ng. The selzing officer may within one month after notice of action received ten er amends to the party complaining or his attorney or agent and plead such tencer.

All actions for the recovery of penalties or for-

teneer.

17. All actions for the recovery of penalties or forfetures imposed by this chapter must be commenced
within three years after the offense committed.

18. No appear shall be prosecuted from any decree
or sestence of any court in this province touching any
penalty or ferfeiture imposed hereby, unless the inhibition be applied for and decreed within twelve months
from the decree or sentence being pronounced.

19. All coasting vessels under sixty tuns burden,
owned in this province and engaged in the coastins
trace thereof, shall be furnished with a narrow piece
of plank or iron affixed to the bottom of the keel and
level therewish, extending aft at least six inches beyond
the sperture between the stern post and rudder, and
well secured on the keel. But this section shall not extend to vessels in which the mish or false keel extends
beyond the aperture between the stern post and rudder. tend to vessels in which the main or false keel extends beyond the sperture between the sterp post and rudder. 20. Any owner or master of a coasting vessel not so furnished or built, running foul of any net set off the barbors, bays and rivers of the coast, shall, upon due proof thereof, forfeit five pounds, to be recovered by the party injured to his own use, as a private debt, leaving to the party grieved, nevertheless, his rights at common law for any further damage. 21 In this chapter "vessels" shall include ships, ports, bays and creeks.

21 In this chapter 'ports, bays and creeks.

In 1837 Appendix No. 75, will be found an elaborate

In 1837 Appendix Ns. 75, will be found an elaborate report on the subject of the Fisheries, recommending His Majesty's Government to employ steamers for their protection, and the Provincial Government a preventive force—which latter was done.

5th Norember, 1838—The following dispatch from Lord Gleneig to Sir Celin Campbell was received, answering the address of the Legislature, and conveying the views of His Majesty's Government—(Vide Journals of 1838 No. 9.) of 1838, No. 9.)

Downing-st , Nov. 5, 1838. DOWNING-ST, NOV. 5, 1838.

Sira: I have the henor to acknowledge your dispatch
No. 16, of the 26th Merch last transmitting a joint Address to the Queen from the Legislative Council and
House of Assembly of Nova Scotis, completing of the
home violation. The American citizens of the American citizens, of the substation between Great Britain and the United Stat

subsisting between Great Britain and the United States on the subject of the Fisheries, and praying for additional naval projection to Britain increats.

In obedience to Her Mejesty's commands, this subject has engaged the serious attention of Her Mejesty's Government, and it has been determined for the future to station, during the fishing assent, an armed force on the coast of Nova Scotia, to enforce a more strict observance of the previsions of the treaty by American citizens, and Her Mejesty's Minister at Washington has been instructed to invite the triendly cooperation of the American Government for that purpose.

The necessary directions having been conveyed to

The necessary directions having been conveyed to the Lords Commissioners of the Admiralty, their Lord-ships have issued orders to the naval Commander-in-Chief on the West Indian and North American station to detach, as soon as the fishing season shall commence, a small vessel to the coast of Nova Scotia, and another to Prince Edward Island, to protect the fisheries. The commanders of these vessels will be cautioned to take they do not themselves overstep the bounds of the Tresty. You will of course afford them every informa-Tresty. You will of course shord them every think his tion and assistance which they may require for the correct execution of this outy. I trust that these measures will prove satisfactory to the Legislature of Nova Scotia.

I have the honer to be, &c.,

GLENELG.

Lieut. Gen. Sir Cours Campall. &c.

27th March 1840—The Legislature of Nova Scatia passed an Address to His Majesty, requesting Government to adopt and frame similar regulations to the Fishery for New Brunswick, Prince Edward Island, Canada and Newfoundland, and catifing attention to the use of the Strait of Canao by American fishing vessels seeking the Gulf of St. Lawrence in vi. latton of the Treaty. in 1841, the House of Assembly adopted a report and appeared observations of Capt, Alexander Milne, of His

Majesty's ship Crocodile, on the Fisheries of Newfound-land, and pressed for the adoption of regulations, espe-cially at the Magdalen Islands.—(Vide Journale, Appen-dis No. 82). chally at the magnature transfer for the United States of No. 62) In the same year, the Minister for the United States addressed Lord Viscount Palmeraton on the subject of the existing law and the Treaty, and the following correspondence and opinion was the result:

Dewning sr., 9th April, 1841. My Lond: I have the honor to transmit, herewith, to your Londship the copy of a letter from the Under Sec-retary or State for Foreign Affairs, inclosing the copy of a note from the Minister at this Court from the Uniof a boe from the winner at this court from the United States of America, complaining of the proceedings of the Provis clai suthornies of News Scotla toward the vessels and citizens of that Republic, engaged in fishing on the coasts of that Province.

I have to request that you wid make immediate inquiry into the allegations contained in Mr. Stevenson's coasts of that you will invite by the destrict and that you will invite me with a destrict and that you will invite me with a destrict and

I have to request that you will make immediate inquiry into the allegations contained in Mr. Stevenson's note, and that you will furnish me with a detailed report en the subject, for the information of Her Majesty's Government I have &c. (Signed) I RUSSELL. The Right Hon. Viscount Falkland, &c. &c. Foreign Obsers, 2d April, 1841.

Sin: I am directed by Viscount Falmeraton to transmit to you, berewith, for the consideration of Lord John Russell, a capy of a note from Mr Stevenson, Minister from the United States of America, relative to certain proceedings of the Colonal a sthorties of Nova Science, I have, &c., (Signed)

Leveson, James States, engaged in Bahing on the religibloring coasts of Nova Science, Lev. &c., (Signed)

Leveson,

COPY OF NOTE FROM MR. STEVENSON.

COPY OF NOTE FROM MR. STEVENSON.

The undersigned, Envoy Extraordinary and Minister Plenipotentiary from the United States, has the honor to acquaint Lord Viscount Palmerston, Her Majesty Frincipal Secretary of State for Foreign Affairs, that he has been instructed to bring to the notice of Her Majesty's Government, without delay, certain proceedings of the Colonial authorities of Nova Scotia, in relation to the seizure and interruption of the vessels and citizens of the United States engaged in intercourse with the ports of Nova Scotia and the prosecution of the Fisheries on its neighbering coasts, and which, in the opinion of the American Government, demand the prompt interpesition of Her Majesty's Government. For this purpose the undersigned takes leave to submit to Lord Palmersten the following representation:

By the lat article of the Convention between Great Brittan and the United States, siroed at London on the 20th October, ISIS, it is provided—ist. That the labelitants of the United States shall have forever, in common with the subjects of Great Britin, the liberty to take 5th of every kind on that part of the southern coast of Now-foundand which extends from Cape Ray to the Rampin Islands on the Western and neithern coast of Now-foundand which extends from Cape Ray to the Rampin Islands on the Western and neithern coast of Now-foundand which extends from Cape Ray to the Rampin Islands on the Western and neithern coast of New-foundand which extends from Cape Ray to the Rampin Islands of the Western and neithern coast of New-foundand which extends from Cape Ray to the Rampin Islands of the Western and neithern coast of New-foundand which extends from Cape Ray to the Rampin Islands of the Western and neithern coast of New-foundand which extends from Cape Ray to the Rampin Islands of the Western and neithern coast of New-foundand the Pooley Rampin Islands of the Western and neithern coast of New-foundand the Pooley Rampin Islands of the Western and neithern coast of New-foundand the Pooley Rampin Islands

reserved to them. Such are the stipulations of the Treaty, and they are believed to be too plain and explicit to leave room for doubt or misapprehension, or render the discussion of the respective rights of the two countries at this time recessary. Indeed it does not appear that any condicting question of right between them has as yet arisen out of the differences of optimin regarding the true intent and meaning of the Treaty it appears, however, that in the actual application of the provisions of the Convention (committed on the part of Great British to the hands of subordinate agents, subject to and controlled by local legislation) difficulties grow in out of individual acts have unfortunately spraing up, among the most important of which have been recent the out of mercada are the most important of which have been recent setures of American vessels for supposed violations of the Triaty. These have been made, it is believed, under color of a Provincial Law, 6th Wm. 4, chap. 8, 1836, color of a Frovincial Lew, on with a personal presend, doubtless, with a view to restrict rigorously, if rot intended to alm a fatal blow at the Fisheries of the United States on the coast of Newfoundland. It also appears, from information recently received by the Government of the United States, that the Proposition of the United States and the States and the States are stated to the States and the States are stated to the States and the States are stated to the States are stated to the States are stated to the States and the States are stated to the States and the States are stated to the States and the States are stated to the Stat

by the Government of the United States, that the Provincial authorities assume a right to exclude the vessels of the United States from all their bays, (even including those of Fundy and Coalepr,) and likewise to probabil their approach within three miles of a line drawn from hesdiand to hendland, instead of from the indense of the shorts of the Provinces! They also assert the right of excluding them from British ports, unless in actual disress, warning them to departer get under weighten I can be appeared by the provincial United States of the United States of the United States of the United States of the Provincial United States of the Provincial United States of the the right of excluding them from British ports, unless in actual disress, warning them to depart or get under weigh and I save harbor whenever the Provincial Castern House or British Naval Officer shall suppose that they have remained there a ceasonable time, and this without a full exemination of the directmentages under which they may have entered the port. Now, the fishermen of the United States believe, (If uniform practice is any evidence of correct construction), that they can with propriety take fish any where on the cost of the British Provinces, if not near than three marine mine to load, and have the right to their ports for shelter, wood and water. Not has this cisting, it is oethered, ever been seriously disputed, based, as it is, or the plain and obvious terms of the Convention. Indeed the main object of the Treaty was not only to secure to American fishern en, in the pursuit of their employment, the right of fishing, but likewise to insure him as large a propertion of the conventiences afforded by the neighboring coasts of British estilements as might be reconcluded with the just right and interests of Britishs undirects, and the due administration of Her Majesty's dominions. The construction, therefore, which has been attempted to be put upon the supulations of the treaty by the authorities of Nova scotia, is directly in conflict with their object, and entirely subversive of the rights and interests of the cutizens of the United States. It is one, moreover, which leads to the abandonment, to a great extent, of a highly important branch of American industry, which could not for a moment to admitted by and interests of the chizens of the United States. It is once, moreover, which leads to the abandonment, to a great extent, of a highly important branch of American industry, which could not for a moment be admitted by the Government of the United States. The underrigned has also been instructed to acquaint Lord Palmerston that the American Government has received information that in the House of Assembly in Nova Scotia, during the season of 1839-40, an Address to Her Majesty was toted, suggesting the extension to adjuding British Colonies of rules and regulations relating to the fisheries, similar to those in actual operation in trial Province, and which have prived so onerous to the fishermen of the United States; and that efforts, it is understind, are still making to induce the other Colonies to unite with Nova Scotis in this restrictive system. Some of the provisions of her code are of the most extraor dinary character. Among these is one which declares that no foreign vessel preparing to fish within three miles of the coast of any of Her Majesty's dominions in America, shall, together with the cargo, he forfeited; that in all cases of seizure, the owner or claimant of the vessel, &c., shall be held to prove his innocence or pay treble costs—that he shall be forced to try his action within three months, and give one month's notice, at least, to the seizing ofference containing everything to be proved assinst him. and give one month's notice, at least, to the seizing offi-cer, containing everything to be proved against him, before any suit can be instituted; and also prove that the notice has been given. The seizing officer, moreover, is almost wholly irresponsible, in-smuch as he is liable to no prosecution, if the Judge certifies that there is probable cause; and the plaintiff, if successful in his suit, is only to be entitled to two peace damages, without costs, and the defendant fixed not more than one shift case, and the designant mean of these rules and regularions are violations of well established principles of the Common Law of England, and of the principles of the just is we of all civilized nations, and would seem to have been designed to enable Her Majessy's authorities to seize designed to enable Her Majessy's authorities to seize and confiscate with impusits, American vessels, and em'ezzle, Indiscriminately, the property of American chilzens employed in the Fisheries on the coast of the British Provinces. It may be proper also, on this occasion, to bring to the notice of Her Majesty's Government the assection of the Previncial Legislature, "that the Got or Strait of Canso is a narrow strip of water or mpietely within, and dividing several counties of the Province," and that the use of it by the vessels and clizens of the United States is in violation of the Treaty of 1818. This Strait separates Nova Scotia from the Island of Cape Breton, which was not annexed to the Province until the year 1820. Prior to that, in 1818 Cape Breton was enjoying a government of its own entirely clisting from Nova Scotia, the Strait forming the line of demarkati in between them, and being then, as now, a thoroughtere for vessels passing into then, so now, a thoroughtare for vessels passing into and out of the Gulf of St. Lawrence. The union of the and out of the Gulf of St Lawrence. The union of the two Colories cannot, therefore, be admitted as vesting in the Province the right to close a passage which has been freely and undi-putably used by the citizens of the United States since the year 1783. It is impossible, moreover, to conceive how the use on the part of the United States, common, it is believed, to all other nations, can in any manner conflict with the letter or spirit of the existing Treaty stipulations. The understyred would increbore fain hope that Her Majesty's Government would be disposed to meet, as far as practicable, the whites of the American Government in the accomplishing, in the fullest and most like all manner. accomplishing, in the fullest and most liberal manner, the objects which both G vernments had in view in en-tering into the conventional arrangement of 1818. He has accordingly been instructed to bring the whole subject under the consideration of the British Govern-ernment, and to remonstrate on the part of this Gover-ernment sgainst the blegal and vexations proceedings of the authorities of Nova Scotla against the client of the United States engaged in the Fishertes, and to request that measures may be forthwith adopted by the British Grovernment to remedy the evil arising out of the misconstruction, on the part of the Provincial authorities, of their conventional engagements, and prevent the possibility of the recurrence of similar acts. The undersigned tenews to Lord Palmerston, &c. (Signed.)

A STEVENSON.

No. 32 Upper Grovesnor at., 27th March, 1841.

GOVERNMENT HOUSE Hallfax, 28th April, 1841. GOVERNMENT HOUSE Hallax, 2stn April, 1841.

MY LOAD: I thrasmit a copy of a Report of a Committee on the Fisherles of Nova-Scotts, which Report has been adopted by the House of Assembly, and to which I have been requested to call your Lordship's

The greatest anxiety is felt by the inhabitants of this Province that the Cenventien with the Americans, signed at London, on the 20th October, [818, should be at left yet and it is nowed that the consideration of the Report may induce your loads to

strictly entered, and it is hoped that the consideration of the Report may induce your Lordship to exert your inducer or in such a manner as to lead to the augmentation of the force (a single vessel) now engaged in protecting the fisheries on the Banks of Newfoundland, and the south shore of Labrador, and the employment in addition of one or two steamers for that purp we.

The people of this Colony have not been wanting in efforts to repress the incursions of the natives of the United States upon their fishing grounds, but have fitted out with good effect some small armed vessels, edapted to follow trespassers into shoal water, or chase them on the seas, and the expediency of this measure has been on the seas, and the expediency of this measure has been on the seas, and the expediency of the separate has been on the seas. In the Fisheries of Newfoundland, but finding their own means inadequate to the suppression of this evil, the Nova-Scotians carnes by extreat the further intervention at d protection of the mother country.

I have the honor to forward berewish, in secondance with a request made to me in the same Resolutions, as

I have the honor to forward herewish, in secondance with a request made to me in the same Resolutions, a case stated (rasing the necessary questions as to the right of fichery which the people of these Colonies posses) for the purp se of being referred to the Frown officers in England, in order that the existing treaties and the rights of these North American Provinces under them may be more strictly defined.

I shall feel obticed by your Lordsing's allowing the opinion of the Grown efficers to be taken on the said case, and I am authorized by the House of Assembly here to defray any expense that may be incurred in obtaining such opinion. I have, &c.,

I have, &c., FALKLAND.

(Nigness)
The Lord John Russell, &c.

CASE STATED by the Right Hon. Viscount Falkland, Lt. Gov of Nova Scotta, at the request of the House of Assembly of that Province, for the purpose of abusining the opinion of the Lux Officers of the Crown in Eng-

land. At the Peace of 1783 a Treaty was entered into be At the Peace of 1783 a Treaty was entered into between the United States of America and Great Britain, by which the per pie of the former country obtained the right "to take fish of the Great Britas and all other Banks of Newfoundland, the Guit of St. Lawrence, and eil other places in the sea where the inhabitants of both countries had been used to fish before, and the liberty to fish the such parts of the coasts of Kawfoundland as British habermen used, but not to dry or cure fish there, and on the coasts, bays, or creeks of all other British dominic ns in America." They also obtained liberty to dry and cure fish in any of the unscitled hays, harbors, and creeks of Nova Saotia. Magdalen Islands and Labrador, but, as soon as any of them were settled, this liberty was to cease, unless continued by agreement with the inhabitants.

the United States declared war against Great Britain in 18:2. Pence two subsequently preciaimed, and a Covention was entered into between the two countries, and stared at London, October 20, 1818, the first article of which is as follows:

tries, and signed at London, October 20, 1818, the first article of which is as follows:

"Historical Differences have arisen respecting the liberty claimed by the United States, for the isbabitants thereof, to take, dry, and cure that on certain coasts, bays, barbors and creeks of His Britannic Majesty's dominions in America, it is agreed between the high contracting parties, that the inhabitants of the said United States shall have forever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland, which extends from Cape Ray to the Rameau Islands, on the western and northern coast of Newfoundlands, on the western and northern coast of Newfoundlands from the self-capital Rajedion Islands, and also on the coasts bays, harbors and creeks from Mount Jolly, on the southern coasts of Labrader, to and through the Strairs of Belleleie, and thence retrieval dly indefinitely, the southern county of Laurader, to and through the Strairs of Belleisie, and thence refuding ally indefinitely, along the coast, without prejudice, however, to any of the exclusive rights of the Hudson's Bay Company—and that the American faberman shall also have liberty for-ever to dry and cure fish in any of the unsettled buys,

harbors and creeks of the southern parts of the crasts of News uncland, hereabove described, and of the coast of Labrador; but so soon as the same or any portion thereof shall be settled, it shall not be lawful for the said fi-termen to dry or cure fish on or within at such portion so settled, with ut previous agreement for such autoons with the thabitants proprietors, or possessors. purpose with the libabitants proprietors, or possessors of the ground. And the United States hereby renounce foreer any liberty heretofore enjoyed or claimed by the libabitants thereof, to take, dry, or cure fish on or within three marks miles of any of the coasts, bays, creeks, or harbors of his Majesty's dominions in Americans. ca, not included within the above mentioned limits; provided, however, that the American fatermen shall provided, however, that the American fastermen able acmitted to enter such bays or harbors for the place of shelter, and of repairing damages therein, publishing wood and of obtaining water, and for no out purpose whatever; but they shall be under such re-strictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any other manner abusing the privileges bereby reserved to them." An Act passed in the 50 h year of the reign of His late Majesty George III, chap. 32, entitled "An Act to enable

Majesty Geor, e III. chap. 38, entitled "An Act to enable His Majesty to make regulations with respect to the taking and curing fish on certain parts of the coarts of Newfoundland and Labrador, and His Majesty's other possessiens in North America, according to a Convention made between His Majesty and the United States of America." And in the year 1836, His late Majesty William IV, in the sixth year of his reign, by an order in Council, assented to and made the clauses of a certain Act of the Assembly of Nova Scotia, and raics, regulalistics, and restrictions respecting the fisheries on the ceasts, bays, &c. of that Province, by the first section of which it is enacted, that any ship, vessel, or boat, which of Great Britain and Ireland, which shall have been fishing, or preparing to fish, or to have been fishing, within three marine miles of the creats, bays, creeks, or harbors of this Province, such ship, vessel, or boat, and their respective cargoes, shall be forfeited. Neva Scotia is indenied with bays, many of which reach from 60 to 100 miles into the interior, such as the Bay of Fundy. St. Mary's Bay, the Bras d'Or Leke and Manchester Bay, the land on the shores is entirely British territory, and Nova Scoti proper is separated from the Island of Case Breton by a parrow strait called the Gut of Caseo, in some parts not wider than three quarters of a mile in the Bay of Fundy, St. Mary's Bay, and the Gut of In some parts for wider than three quarters of a man to the Bay of Fundy, St. Mary's Bay, and the Gut of Carso, Americans conduct the fishery, and their fishing ressels pass also through the latter, or anchor there, and not only fish, but by using balt, toll the mackers! into deep waters thereby injuring the profitable seine fisheries of Fox Island and Crow Harbor, Arichat, St. Februs 28 Bay and other stations in the neighborhood of er's Bay and other stations in the neighborhood of Canso which formerly were the most productive fish-eries in Nova Scotia. They also land on the Magdalen lating a set ners and sweep selnes in the spring of the

year, at a time when the herrings resort to have waters to spay n, the reby destroying the spawn and young lish, and consequently ruintegirs fishery.

The opinion of the Law Officers of the Crown in Eng-lard is requested on the following points:

First: Why ther the Treaty of 1783 was annulled by the war of 1812, and whether citizens of the United States the war of 1819, and whether citizens of the United States possess any right of fishery in the waters of the Lower Provinces other than ceded to them by the Convention of 1818, and if se, what right. Second: Have American citizens he right, under that Convention, to oner any of the bays of this province to take fish, if, after they have so entered, they prosecute the dishery more than three marine miles from the shores of such pays; or should the prescribed distance of three marine miles be received from the headland, at the entrance of such three marine miles from the shores of such pays; or she uld the prescribed distance of three marine miles be measured from the headland, at the entrance of such bays, so as to exclude them. Third: Is the distance of three marine miles to be computed from the indents of the coasts of British America, or from the extreme headlands, and what is to be considered a headland. Fourth: Have American vessels, fitted out for a lishery, a right to pass through the Gut of Canso, which they can not do wi hout coming within the prescribed limits, or to another there or to fish there; and is essing built to lare lish in the track of the vessels fishing, within the meming of the Convention. Fight. Have American crizers a right to land on the Magdalen Islands, and conduct the finery from the shores thereof, by using nets and series, or what right of fishery do they possess on the shores of those Islands, and what is meant by the term shore. Sinth: Have American fishermen the right to enter the bays and hardors of this Province for the purpose of purchasing wood or obtaining water, liaving provided neither of these articles at the commercant of their voyages, in their own country; or have they the right only of entering such bays and harbors in cases of distrest, or to purchase wood and obtain water, after the usual stock of those articles for the voyage of such fishing craft has been exhausted or destroyed. Screats, Under existing treaties, what rights of sheety are crede to the citizens of the United States of America, at what reserved for the exclusive enjoyment of British subjects.

Not 35, dated the April, 1811, transmitting a copy of a letter from the Under Secretary of State for Foreign Affairs, beloeing a copy of a note from the American Michier, complaining of certain proceedings of the Colorial authorities of this Province toward the vessels and Nova Scotis, and desiring that I will make im-

and citizens of the Republic, engaged in fishing on the coasts of Nova Scotta, and desiring that I will make immediate inquiry into the allegations made by Mr. Stevenser, and forward to you a detailed report on the subject. I have lost no time in obeying your instruc-

thers, and beg to submit the following observations for your consideration: The difficulties which exist, and of which Mr. Sleven The difficulties which exist, and of which are Seven-ton complains as growing out of individual acts, are created by the difference of the interpretation put by the Nova Scotians and the Americans upon the true in-tent and meaning of the Treaty referred to by his Ex-cillery, and the Act of the imperial Perlament, 53, Geo. 3, cap. 38, founded on that Treaty, and more fully referred to hereafter and until formal adjudication re-marks for the setzure and prosecution of american take place, and consecutive precedents for fature guid-ance to thereby established, it appears probable that doubts may and will arise as to the interpretation to be It is true that some seizures have been made of Amer

It is true that some enter the Povincial Act 6. Wm 4, referred to by the American Minister, but his Excellency be fallen into nuch misepprehension as regards the character of this law, the extent of its operation, and the party of the selzures made under it. The Act rethe character of this law, the extent of its operation, and the patter of the setzures made under it. The act recites the Convention and the invertal Statute 50, Geo. 3, esp. 38, before mentioned, and, in describing the encroscements on the coasts of the Province which it was its object to prevent, it will be found to be framed in perfect conformity with the letter and spirit of that statute, while the provisions by which it seeks to effect the object in view, are borrowed from the imperial cracing the relating to trade and navigation. Its operation is limited, as of necessity it must be, to Nova Scotia, and therefore it could not have been passed, as assumed by Mr. Stevensen, with a view to restrict or destroy the such therefore it could not have been passed, as assumed by Mr. Sevense n, with a view to restrict or destroy the other fess of the United States on the coast of Newfoundhard, and for the same reason this Act does not affect the Bay of Chalcurs, also mentia need by his Excellency. In point offset, I have not been able to lears that any seizures have been made when the vessels have not been whilsto the distance prescribed by the statute, or considered so to be; although it is true the Bay of Fundy, as well as smaller bays on the coast of this Prevince, is thought by the Law Officers in the Province to form part of the exclusive territory of the Crown, under the authority of a principle of the law of nations laid down by Gretius and adopted by English jurists.—(Vide Ching's Commercial Lew, vol. 1, p. 30.)

ommercial Lew, vol. 1, p. 90.)
The complaint that the Provincial authorities assume

the complement that the Provincial submitties assume the right to prohibit "the approach of American fishing vessels within three mikes of a lone drawn from head-land to headland, Instead of from the indents of the shores of the Provinces," is another exemplification of the difference I have stated to exist in the interpretasheres of the Provinces, is another exemplification of the difference I have stated to exist in the interpretation put upon the Tresty by the subjects of the two Governments—the following words of the Convention "the United States renouncing any liberty before enjoyed by their citizens to take fish within three marine miles of any coasts, bays, creeks or harbors of the British do-nicloons in America, not locloudd in the above limits, i.e. Newfoundand and Labrador," appearing to the authorities here to bear them out in the assumption of such right, whereas the citizen of the United States maintain the direct contrary. On this point the Law Officers of the Crown in the Colony express themselves very strongly, both on the general principle of international Law and the letter and spirit of the Convention. They ceem it to be a settled rule that the shore of a State lying on the sea, is determined by a line drawn from the projecting headlands, but by following the indentations of the coast, (vide let Chitry, 199 and 100.) and therefore think it a necessary consequence that the three miles fixed upon by the Convention should always be measured from such a line. But they also say, the words of the Convention would put an end to the question, could any be raised on the general rule.

The language used in the Convention (1st article) is "three marine miles of any of the consequence that ware the surface of the Britannie Marset's dominion to the agents of the property of the Britannie Marset's dominion to the agents of the convention of the forms of the Britannie Marset's dominion to the agents of the agents of the property of the Britannie Marset's dominion to the agents of the agents of the Britannie Marset's dominion to the agents of the convention of the American Inc.

"the anguage used in the Convention (lat article) is 'three marine miles of any of the coasts, bays, creeks or harbers of His Britannic Majesty's dominions in Amer-ica," and it is considered that three miles from a bay, creek on harbor, must mean three miles from any part of R, and coast-quently from its entrance or meuth, or in other words, from a line drawn from its projecting head-lands. The Convention, however, does not stop here, it provides "that American fahermen may enter such bays or barbors for the purpose of shelter, repairing bay or harbors for the purpose of shelter, repairing durages, and obtaining wood and water, and for no other purpose whatever. But they shall be under such resultations as may be necessary to present their taking, drying, or caring fish therein, or in any other manner whatever abusing the privileges hereby reserved to them." This language is considered conclusive against any pretense that American fishermen should have the right to enter any bays or harbors in Her Mijesty's North American Colonies, excepting only for sneiter, repairing damages, and providing wood and water. Indeed, the claim now set up, there is reason to believe, is new, as, in point of practice, the American fishermen, when questioned for being within the waters of this Frownee, have uniformly resorted to the pretext afforded by the Convention, viz: the want of shelter, regair, or wood and water, and never, it is believed, nave ascerted the right to fish within the bays or harbors of asserted the right to fish within the bays or harbors of the cears. This question is of extreme importance to Nova Scotie, as, from the indented nature of its coasts, the claim set up by the American Minister would lead to results most injurious to the Province.

The right to resert to the ports of this country for shelter, would and water, which Mr. Stevenson conceives has never been seriously disputed, has always been trackly conceded in cases of real distress and unaffected cals mity, but never when such right was supp-sed to be exercised for the purpose of evading the British commercial regulations. Thus, in the case of the Nabby, selzed in itsic, by Her Majersty's ship Saracca, and pro-secuted in the Almiraty Court of this Province, it was

decided that vessels are bound to have a sufficient quantity of wood, water and provisions on board for the voyage which they are engaged in—a scarcity of either of these articles, ari-ing from design or neglect, not necessally opening British ports to any adventurer seeking to con-travene the law.

The American Minister states in his dispatch, that the fishermen of the United States believe that they can with propriety take fish anywhere on the coasts of the British Provinces, if not nearer than three marine miles to land. This, from the general context of Mr. Sevenson's note, evidently means within three miles of the indents of the shore: the uniform practice alluded to by that gentleman is a practice which has always been resisted by the authori les of this Colony, sithough it is difficult, with an extended coast, and inadequate means of protection, entirely to suppress it.

Mr. Shevenson goes on to say, "that the construction which has been attempted to be put upon the stipula-

which has been attempted to be put upon the stipula-tions of the Tresty by the authorities of Novs Scotis, is directly in conflict with their object, and entirely subversive of the rights and interests of the citizens of the United States; again, "that some of the provisions of her code are of the most extraordinary "that ame of the provisions of her code are of the most extraordinary character, and, towards the conclusion, "that some of these rules and regulations are violations of the well established principles of the common law of England, and of the principles of just laws of all civilized calons, and would seem to have been designed to enable flor Majesty's authorities to setze and confiscate with impunity. American vessels, and embezzle, indiscriminately, the property of American citizens employed in the inherites on the coast of the British Provinces. This is very stong language, and if justly applicable at all, is applicable to the statute 50. Geo. Hit, passed one year after the signing of the Convention, and with the express design of carrying out its provisions, as follows: And it shall not be lawful for any person or persons, not being natural born subjects of His Majesty, in any forcing ship, vessel or boat, other than such as shall be being natural born subjects of His Majesty, in any foreign slip, vessel or boat, other than such as shall be navigated according to the law of the United Kingdom of Great Britain and Ireland, to dish for, or to take, dry or cure fish of any kind whatever, within three marine miles of any coasts, buys, sreeks or barbors whatever, in any part of His Majesty's domitions in America, not included within the limits specified and described in the first sincle of the said Convention, and that if sty such foreign ship or vessel, or any persons on board thereof, shall be found fishing, or preparing to it he within such distance of such coasts, bays, are also in the arrives, within such parts of the sforesaid deminious in America as are out of the said limits as deminions in America as are out of the said limits as aforesaid, all such ships, vessels or boats, together with their cargoes, and guns ammunition, tackle, apparel, and stores, shall be forfeired, and shall and may be setzed, by such and the like ways, means and inschools, and in the same courts as ships, vessels, and beas may be and demond for any offcuse against any laws relating to the Review of Customs. Acc. Thus, the very words "pre-Review of Customs, &c. Thus, he very words "pre-paring to fish," so strongly animadverted on by Mr. Sprenson, are copied from an imperial Act which has been territy-three years in force, and which, insanuch as thes relation to American interests of the greatest inportence, and sprung out of a Convention concluded with a view to the establishment of those interests, c uld not but be well known to the United States Government.

The 5th section of 6, Wm. IV, which provides that the owner of the vessel seized shall be held to prove his the owner of the vessel seized shall be held to prove his innecence, does not involve the payment of trable costs in case of failure; and Mr Stevenson is, I am assured by the Crown officers here, in error, with respect to the interpretation he has given to it.

Mr. Stevenson objects to the seizing officer being "liable to no prosecution, if the Judge cortifes that there is probable cause of seizure," and complains that "the plaintiff, if successful in his suit, is only entitled to two the charges without costs, and the defendant

two-perice damages, without costs, and the defendant can be fixed no more than one shilling." This is an imperience statement of the clause, inasmuch as the plain till is entitle dto recover the value of his goods; but, it case probable cause is certified, be can only, in additionally in the case probable cause is certified, be can only in additional times of the case probable cause is certified.

case probable cause is certified, be can only, in addition, recover two-pence damages.

The Province has, how-ver, transcribed from the Imperial Statute of 6th. Geo 4, cap. 114, cutilied, "An Act to regulate the Trade of the Belish possessions abroad," and therefore, if it be in resity a violation of the well established principles of the common law of England, and of the principles of the just have of all civilized nations, has long been submitted to by British subjects, and could not have been designed by the Assembly of Nova Scolia "to enable lifer Majesty's authorities to selize and confiscate, with impunity, American vessels, and emberrle, indiscriminately, the property of American citizens."

Her Majesty's exclusive property and dominion in the

Her Mejesty's exclusive property and dominion in the

Her Mejesty's exclusive property and dominion in the Strait of Canso is deemed maintainable upon the principles of international law, already referred to, and which, it is considered, will equally apply, whether the shores on each side form parts of the same Province, are of different Provinces belonging to Her Mejesty. This Strait is were marrow, not exceeding, in some parts, one mile in breadth, as to be seen on the Asimtrally chart, and its navigation is not necessary for communication with the space beyond, which may be reached by going round the Island of Cape Breton.

Having noticed successively the allegations of the American Minister, I may be permitted to make one or two remarks on the general tenor of His Excellency's communication, which goes to charge the Legislature of Nova Scatia with a design to subvert the rights and interests of American citizens, in contravention of the Treaty of Isla. It appears to me that the Provincial Legislature cannot be accused of any such intention. It is manifest that neither the statute of the Imperial Parliament, nor that of the Colonial Legislature can extend the terms of the Treaty itself, or render them more comprehensive. Its true construction, according to the law of mations, nust govern those to be affected by it, and coloniate, aware of this, and conceiving themselves wranged by the interpretation given to the Treaty of the Integration of the most eminent purists on the States, havelong been, and new are, anxious to obtain the opinion of the most eminent purists on the subject, not seeking for any forced construction of the Freaty to give them privileges not contemplated at its execution, but merely to protect themselves from that which, be they right or wrong, they now deem an intringement of their rights. The whole course of their legislation with regard to tals matter, appears to prove this. whose course of their legislation with regard to tals matter, supears to prove this. In the laws which they have made for the protection of their fisheries, which in no case are more extensive than the Imperial Statute, 50, Geo. 3, there is not only nothing new, but they have accevered, as I have shown, to adopt on all occasions the principles of Imperial legislation, and have copied the words of Imperial Acts.

I have now, I trust, established that if the interpretation put on the Treaty by their habitants of Normal and the content of the protection of the content of t

then put on the Presty by the inhabitants of Nova-Scotia is an incorrectione, they are sincere in their belief of the justice and truth of that interpretation, and most arxious to have it tested by capable authorities; and further, that if the laws passed by the Provincial Legisisture are really of the oppressive nature they are asserted to be by Mr. Stevenson, they are coacted in the belief that the framers of them were doing nothing more than carrying out the views of the Home Govern-ment, as to the mode in which the Colonists should protect their own dearest interests.

I have, &c. (Signed) he Lord John Russell, &c., &c.

Downing st., 28th Nov., 1842.
My Lond: I have the benor to acknowledge the recipt of your Lordship's Dispatch of the 11th July last, cript of your Lordship's Dispatch of the 11th July last, it closing ceptes of two reports made by Committees of the House of Assembly of Nova Scotia, comptaining of the encreachments of American citizens on the insertes of Bridsh North America, and praying the establishment of a general code of regulations for their presention—together with a capy of a case prepared by you in April, 1841, to be submitted to Her Majesty's Law Officers, taking certain questions, as to the rights of Fishery conserved by the Treaties on the subject, on British and American Fishermen respectively. I incless, for your information, a copy of the Report, which, on the 30th August, was received from the Queen's Advocate, and Her Majesty's Attorney General, on the case drawn up by your Lordship;—since that date the subject has frequently ergaged the attention of myself and my collegues, with the view of adopting further measures if necessary, for the protection of British interests in accordance with the law, as ind down in the inclosed Report. We have, however, on full consideration, come eport. We have, however, on full consideration, come the conclusion, as regards the Fisheries of Nova Scoto the conclusion, as regards the Fisheries of Nova Socials, that the precaudose taken by the Provincial Legislature appear adequate to the purpose, and that being raw practically acquiesced in by the Amricans, no further measures are required. I have, &c.

The Right Hop. Viscoust Falkland, &c.

The Right Heb. Viscoust Falkland, &c.

[Copp.]

Docron's Commons, 30th August, 18i1.

My Lord: We are henored with your Lordanty's commands, signified in Mr. Backhouse's letter of the 16th of May, stating that he was directed to transmit to us the accompanying letter from the Colonial Office, inclosing a copy of a dispatch from the Lieutenant Governor of Nova Scotia, together with an Address to Her Majesty from the House of Assembly of that Province, complaining of the continued eneroschments of American Fishermen on the fishing ground of Nova Soutia and it discent Colonies, and praying that Her Majesty would establish, by an order in Council, general regulations for the protection of the Fisheries, according to the code annexes to the Address.

We are also honored with Mr. Backhouse's letter of the 8th June, stating that he was directed to transmit to us a copy of a letter from the Colonial Office, together with a copy of a dispatch from the Lieutenant Governor of Nova Scotia, inclosing a case for opinion as to what rights have been ceded to the citizens of the United States of America, and as to what rights have been exclusively reserved to Her Majesty's subjects, and to request that we would take the papers into considers. ted states of america, and as to what rights have been exclusively reserved to Her Majesty's subjects, and to request that we would take the papers into consideration, and report to your Lordship our opinion upon the several questions stated in the case above mentioned.

Query first: In obedience to your Lordship's commands, we have taken these papers into consideration, and have the honor to report, that we are of coinion that the Treaty of 1783 was annulled by the War of 18.2; and we are also of opinion that the right of Fishery of the clizens of the United States must now be considered as designed and the Constant of the Consta tion of 1818; and with respect to the general question "if so, what right," we can only refer to the terms of the Convention, as explained and elucidated by the ob-servations which will occur in answering the other spe-

cific queries.
Second: Except within certain defined limits to which Scord: Except within certain defined limits to which the query put to us does not apply, we are of opinion, that by the terms of the Treaty, American citizens are excluded from the right of Sching within three miles of the coast of British America; and that the prescribed distance of three niles is to be measured from the hesclands or extreme points of land next the sea of the coast, or of the entrance of the bays, and not from the

interior of such buys or inless of the coses, and consequently that no right exists on the part of Academy citizens, to enter the bays of Nova Social, there is take fish, aithough the fishing being within the bay, may be at a greater distance than three miles from the solve of the tony, as we are of opinion that the term handland is used in the Frenty to express the part of the land we have before mentioned, excluding the interior of the bay was the inless of the coseta.

Found: By the Treaty of 1818 it is agreed, that American etizes should have the liberty of shing in the Guif of St Lawrence, within certain defined him in a common with British subjects; and such Treaty does not contain any words negativing the right to nation the passage of the Guit of Canno, and therefore it may be expected that such right of navigation is attained as any by that Convention; but we have now attained; considered the course of navigation to the Guif, by Considered the course of navigation to the Guif, by Considered the course of navigation to the Guif, by Considered the course of navigation to the Guif, by Considered the course of navigation to the Guif, by Considered the course of navigation to the Guif, by Considered the course of navigation to the Guif, by Considered the course of navigation to the Guif, by Considered the country has the right to use or navigation of the passage of Canno, and of the British dominions on directly to go country has the right to use or navigation to passage of Canno, and attending to the terms of the Convention.

Convention relating to the liberty of fishery to be accompanied on the fishery of the market by the Americans, we are also of opinion that enter loyed by the Americans, we are also of opinion that cannot have been to have a fine of the fishery of the market between the subject of the passage is and to the classical to the passage is an of the fishery of the market between the subject of the passage is an of the fishery of the market below that the such therety is distinctly negative i

erred with water, so far as could be available for the due enjoyment of the liberty granted.

Sixth: Be the Convention, the liberty of entering the bay and harbors of News Scotla for the purpose of par-chasing wood and obtaining water, is conseded in gen-eral terms, unrestricted by any condition expressed or implied, in thing it to vesse is duly provided at the com-mencement of the voyage; and we are of osision that no such condition can be strucked to the enjoyment of the theory.

Strent: The rights of the Fishery ceded to the ciding Screek: The rights of the Fishery coded to the citizen of the United States, and those reserves for the excisive enjoyment of British subjects, depend allowether upon the Convention of 1818, the only existing Treaty on this subject between the two countries, and the material points arising thereon have been appetitedly answered in our replies to the proceeding queries.

Welman, 4. (Super)

J. Doboso, THOS WILDE

In 1842 the House of Assembly adopted a Report asserting that the Convention excludes American ves secring that the Convention excludes America verrels engaged in the fishery from passing through the
Straft of Carron—(Vide Journals, Appendix No. 15.)
1843, the House of Assembly adopted a report stress
ously recommending protection—(Vide Journals, Appandix, No. 74.)
1844, the Report of the Assembly recommends the
extension of the Fishery Regulations to the other Proinces and Magdales Islands—(Vide Appendix, No. 68.)
1845, a similar Report, appendix No. 87.
1846, Report appendix, No. 87.

1846, Report, appendix, No. 87.
1847, Report appendix, No. 75.
1848, Report of Assembly refers to the opinion of the Crown Officers of England, and recommends the Government to exercise a legal right over the Straft of Canso, by taxing American tunnage.—(Fide Appendix, No.

1840, apppedix, No. 72, a Report to the same effect. 1850, appendix No. 77, ditto.
1851, in the Report of this year the House recommends the prohibition of American vessels passing through the Smatt of Came, and report as follows.

"The Committee appointed to consider the question of the savigation by foreign vessels of the Gut of Canso,

"The Committee appointed to consider the question of the avaignation by foreign vessels of the Gut of Canso, by gleave to report as follows:

"The question submitted to your Committee involves the consideration, first, of the right of the Legislature of this Province to impose restrictions or obstructions upon foreign vessels wishing the use of the passang; and secondly, the policy of imposing any and what restrictions or obstructions. Your Committee, is the consideration of the first point, are affect materially by the action of a Committee of this House in the year 1842, who prepared a series of questions, which were submitted by Lord Fakikand to the Colonial Secretary, and by him to the Law Officers of the Grown in England, upon the general subject of the rights of fishery as reserved to this courtry by the Tresty with the United States in the year 1818, and also respecting the navigation of the Gut of Canso. As the consideration of your Committee has been sucley directed to the latter point, it is unnecessary to advert to the issues raised upon the other point. The investigation is therefore confined to the fourth question submitted, that is to say: Have vessels of the United States of America, fitted out for the fishery, at also takes of America, fitted out for the fishery, at also takes of whout coming within the preceibed limits, or to suchor there or to fish there; at dis casing batto ture fast in the track of the vessel fishing within the meaning of the Convention is

"This question, with the others, was suggested by the Merch, 1841, actreased to Lord Palmerson, then an now Foreign Secretary, against the seizure of fields ve.sels belonging to citizens of the United States for a lear of breaches or the terms of the Convents of 182 a coay of which was forwarded to Lord Fakkand, the Lieutenent Governor of this Province, and submit by him to the Legislature of 1842. This note conta by him to the Legislature of 1842. This note contain the following observations in respect to the navigation the Gut of Cause. It may be proper also, on this we casion, to bring to the notice of Her Majesty's Government the assestion of the Provincial Legislature, the the Gut or Strait of Cause is a narrow surp of sur, an unpletely within and dividing several Counties of the Province, and that the use of it by the vessels and dividing several Counties of the United States is in violation of the Traing 1818. This Strait a narra. New Scalia from the blade

zers of the United States is in violation of the Treaty 1818. This Strait set, arane Nova Scotia from the black of Cape Bretch, which was not annexed to the Profess until the year 1820. Prior to that, in 1818, Cape Breta was enjoying a Government of its own, dis inclined Nova Scotia, the Strait forming the line of demarkation where them; and being then, as now, a thoroughter for easely passing into and out of the Gulf of State rence. The Union of the two Celonies cannot terrefore, be admitted as vesting in the Province the right is close a passage which has been freely and indisputable used by the citizens of the United States since its year 1830. It is impossible moreover, to conceive how the use on the part of the United States of the right of passage, common, it is helieved, to all nations, on is any member conflict with the letter or spirit of the existing Treaty stipulations. tirg Treaty stipulations."

The questions having been previously for warded by

The questions having been previously forwarded by Lord Faik and to Lord John Russell, Lord Faikand, or the Stn May, le41, addressed to Lord John Russell very able dispatch on the general subject of the Fisherie, in which previous Provincial Legislation was blacted by vindicated from energes made by Mr. Sevension for the scizure, improperty, of American Saing vessels; and elearly showed that the Previous Legislation was founded upon and sustained by previous imperial acts upon the same subject; and which dipatch most completely eleaned any further coupling a like nature. The dispatch also refers to the sagestion of the Gutof Casso, upon which Lord Faikist therein remarks, in answer to Mr. Stevenson: the first property and dominion in the Su of Casso is occured meditainable upon the principle international law already referred to, and which from sidered will equally apply, whether the store of the subject of t international law already referred to, and which considered will equally apply, whether the shore such side form part of the same Province, or of diseast Provinces belonging to Hert Majesty. This Strivery narrow, not exceeding, in some parts, one mistresolit, as may be seen on the Admiralty Charteston is not necessary for communication of the space reyond, which may be reached by for round the Island of Cape Breton."

"Lord Faikland again says: "I have now, land tablished, that I the interpretation put upon the first tablished, that I the interpretation put upon the first constants."

"Lord Falkland again says: 'I have now, lust a fablished, that f the interpretation put upon the first by the inhabitants of Nava Scotia is an incomet cartiney are sincere in their belief of the justice advertises, and further, that if the laws passed by the Provincial Legislature are really of the oppressive ture they are asserted to be by Mr. Stewnson, by were exacted in the belief that the framers of the were exacted in the belief that the framers of the were doing nothing more than carrying out thereof the Home Government as to the mose in subtantial follows a copy of the Proclamation containing the in of the 6th William IV, of which Mr. Sowcows copieins; and any alteration in its provisions, should not seem of the Provincial Parliament.

The opinion of the Queen's Advocate and He is

Session of the Provincial Parliament.

"The opinion of the Queen's Advocate and He is testy's Att. rncy General on the case drawn up by Lef Faikland, and upon the questions automitted by the formittee, was inclosed by Lord Stanley to Lord Faikland, accompanied by a dispatch dated the 23th Nassay, 1842. The opinion of the Lew Officers of the Consustained as it was by the British Government, upon the property of the Convention of 1818, it is agreed that American countries the liberry of fishing in the Gulf & Lawrence, and within certain defined limits, in common with British subjects, and such Convention desired accutain any words negativing the right to navigate he with British subjects, and such Convention does as contain any words negativing the right to navigate his passage of the Gut of Canso, and therefore it may be conceded that such right of navigation is not take away by that Convention, but we have attentively considered the course of navigation to the Gulf by Capt Breton, and likewise the capacity and situation of many passage of Canso, and of the British dominions an either side, and we are of opinion that, independently of ready, no foreign country has the right to use or navigate the passage of Canso, and attending to the liberty of fishery to be enjoyed by American citizens. We are also